



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Jameson Lee
Telephone: (703) 308-9797
Facsimile: (703) 305-0942

MAILED

OCT 2 - 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: BURMEISTER
Application No.: 08/737,492
Filed: 03/19/97
For: TISSUE SUPPORTING DEVICES
Accorded benefit: Application 08/246,320,
filed 05/19/94 and
PCT/US95/06228, filed 05/18/95

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,036.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).



JAMESON LEE
Administrative Patent Judge

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Judge Jameson Lee
Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed
2 October 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

LUTZ FREITAG,

OCT 2 - 2002

Junior Party,
(Patent 5,601,593),

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

v.

PAUL H. BURMEISTER, CHARLES L. EUTENEUER,
BRIAN J. BROWN, PAUL J. FORDENBACHER
and ANTHONY C. VRBA,

Senior Party,
(Application 08/737,492).

Patent Interference No. 105,036

NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

Part B. Judge designated to handle the interference

Administrative Patent Judge Jameson Lee has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the interference is scheduled for **10:00 a.m. on 26 November 2002** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. The parties involved in this interference are:

Junior Party

Named inventor: LUTZ FREITAG, Hemer, Fed. Rep. of Germany

Patent: 5,601,593, granted 11 Feb. 1997, based on application 08/517,162, filed 18 August 1995

Title: Stent for placement in a body tube

Assignee: Willy Rusch AG

Accorded Benefit: none

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: PAUL H. BURMEISTER, Maple Grove, MN
CHARLES L. EUTENEUER, St. Michael, MN
BRIAN J. BROWN, Hanover, MN
PAUL J. FORDENBACHER, Minneapolis, MN
ANTHONY C. VRBA, Maple Grove, MN

Application: 08/737,492, filed 19 March 1997

Title: Tissue supporting devices

Assignee: Scimed Life Systems, Inc.

Accorded Benefit: Application 08/246,320, filed 19 May 1994
PCT/US95/06228, filed 18 March 1995

Attorneys: See last page

Address: See last page

Part F. Count and claims of the parties

Count 1

Claim 21 of Burmeister's Application 08/737,492

or

Claim 1 of Freitag's Patent No. 5,601,593

The claims of the parties are:

Freitag: 1-10

Burmeister: 21

The claims of the parties which correspond to Count 1 are:

Freitag: 1-6 and 9

Burmeister: 21

The claims of the parties which do not correspond to Count 1 are:

Freitag: 7, 8 and 10

Burmeister: none

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See
§ 18 of the STANDING ORDER.

Paper ¹

Filed on behalf of [name of party]
By: Name of lead counsel, Esq.
Name of backup counsel, Esq.
Street address
City, State, and Zip-Code
Tel:
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Jameson Lee)**

**LUTZ FREITAG,
Junior Party,
(Patent 5,601,593),**

v.

**PAUL H. BURMEISTER, CHARLES L. EUTENEUER,
BRIAN J. BROWN, PAUL J. FORDENBACHER
and ANTHONY C. VRBA,
Senior Party,
(Application 08/737,492).**

Patent Interference No. 105,036

TITLE OF PAPER

¹ Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

1. **§ 7:** date for identifying lead and backup counsel.
2. **§ 8:** date for identifying any real party in interest.
3. **§ 9:** date for requesting copies of involved and benefit applications and patents.
4. **§ 17:** date for filing list of proposed preliminary motions.
5. **§ 19:** date for accomplishing certain discovery.
6. **§ 20:** date for filing clean copy of claims.
7. **§ 21:** date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. **§ 23:** dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. **§ 33:** date for objecting to admissibility of evidence.
10. **§ 34:** date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. **§ 35:** dates when cross-examination can take place.
12. **§ 45:** dates for taking action with respect to settlement discussions

Part I. Order form for requesting file copies

FILE COPY REQUEST

Interference 105,036

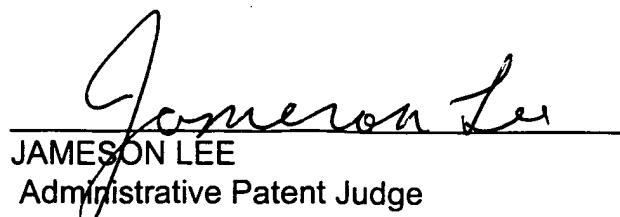
A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge



JAMESON LEE
Administrative Patent Judge

Date: 10/2/02
Arlington, VA

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference (ORDERTE6)

PTO Form 850

Copy U.S. Patent 5,601,593

Copy of claims of 08/737,492

DECLARE.007
Revised 12 October, 2000
(replaces DECLARE.006.1)

cc (via Federal Express):

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